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In re Application of
Jones, Ben et al.
Application No.: 09/936,630
PCT No.: PCT/US00/40038
Int. Filing Date: 16 March 2000
Priority Date: 17 March 1999
Attorney Docket No.: IO-1009US
For: SENSOR

DECISION ON
PETITION UNDER
37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 09 May 2003.

BACKGROUND

On 16 March 2000, applicants filed international application PCT/US00/40038, which claimed a priority date of 17 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 17 October 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 September 2001.

On 12 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 04 December 2001, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 June 2002, applicants submitted a petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a four-month extension of time; the fee for a four-month extension of time; a declaration executed by eight of eleven inventors; copies of certified mail receipts, envelopes and a letter.

On 19 July 2002, the Office dismissed the petition without prejudice.

On 19 September 2002, applicants submitted a renewed petition under 37 CFR 1.47(a).

On 18 December 2002, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 09 May 2003, applicants submitted a second "Renewed Petition Under 37 C.F.R. 1.47(a)," accompanied by a petition for a three month extension of time and the fee for a three month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (3) were previously met.

Items (2) and (4) have now been met. Applicants have furnished documentary evidence of receipt of the application papers by Mr. Broseghini, Mr. Johnson, and Mr. Burchfield. Applicants have demonstrated a diligent effort to locate Mr. DeVolk. The declaration now complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. 371 date of 09 May 2003.



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